

TAKO MINING (ON RECONSIDERATION)

IBLA 82-587

Decided October 31, 1983

Petition for reconsideration of Tako Mining, 63 IBLA 206 (1982).

Denied.

1. Rules of Practice: Appeals: Reconsideration

Under 43 CFR 4.21(c), a request for reconsideration of a decision of the Board of Land Appeals must be filed promptly and may be granted only in extraordinary circumstances. A petition for reconsideration will be denied as untimely when it is filed more than 18 months after issuance of the decision, the petition raises no new issues or matters, and the only apparent justification for such late filing is a reference to a recent communication from the National Park Service which has no controlling effect on disposition of the appeal.

APPEARANCES: Wilbert P. Witkopp, for petitioner.

OPINION BY ADMINISTRATIVE JUDGE HENRIQUES

Tako Mining (Tako) has petitioned the Board for a reconsideration of its April 19, 1982, decision in Tako Mining, 63 IBLA 206 (1982), in which we affirmed a decision of the Arizona State Office, Bureau of Land Management, declaring the unpatented Tako #1 through #3, and #5 through #10 lode mining claims, A MC 46820 through A MC 46828, abandoned and void for failure to file instruments required by section 314 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. § 1744 (1976), and 43 CFR 3833.2 in 1980.

Petitioner states that his agent, Samuel Riley, was experiencing considerable difficulty at the time because of serious illness in his family, that Riley advised him that the Arizona State Office, Bureau of Land Management, had issued the abandoned and void decision, and that he, Riley, had filed an appeal. Petitioner further states that he has had no contact with Riley since March 9, 1982, and that he was never informed by BLM or this Board of the resolution of the appeal filed by Riley.

[1] Departmental regulation 43 CFR 4.21(c) provides that reconsideration of a decision issued by the Board may be granted only in extraordinary circumstances where, in the judgment of the Board, sufficient reason appears

therefor. The regulation also provides that requests for reconsideration must be filed promptly. Tako's petition was filed more than 18 months after issuance of our decision. Even a promptly filed petition will be denied if the petitioner merely renews arguments made in the original appeal and fails to demonstrate extraordinary circumstances. When a petition is filed more than 18 months after the Board has issued its decision, some additional explanation is required in order to provide the Board with some basis for finding that the petition meets the regulatory requirements for promptness. At a minimum, the petitioner should be required to explain why the petition could not have been filed earlier. In examining Tako's petition, we find that petitioner has raised no new argument. The only apparent justification for the tardiness of Tako's petition is its reference to a letter from the National Park Service which included a copy of the Board's decision, Tako Mining, 63 IBLA 206 (1982), which letter, however, has no controlling effect on the disposition of the appeal. Tako has demonstrated no extraordinary circumstances warranting reconsideration, nor has it provided any justification for the tardiness of its petition.

Both the public at large and the agencies which administer Federal lands have a right to rely on, and to act upon, decisions of this Board, which are final for the Department. To reconsider such decisions long after they are rendered could severely prejudice those who have taken actions in the interim based on such reliance.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the petition for reconsideration is denied.

Douglas E. Henriques
Administrative Judge

We concur:

Bruce R. Harris
Administrative Judge

Edward W. Stuebing
Administrative Judge

